

NO. 22-2288

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,
Appellant

v.

COREPHOTONICS, LTD.,
Appellee

**UNOPPOSED SECOND MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT'S OPENING BRIEF**

**Appeal from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in No. IPR2020-00489**

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Attorneys for Appellant Apple Inc.

TO THE HONORABLE COURT:

Under Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Apple Inc. (“Appellant”) files this unopposed second motion for extension of time and respectfully requests a 28-day extension, until and including April 7, 2023, to file Appellant’s opening brief.

A. Current Deadline

The certified list was served on November 8, 2022, making Appellant’s opening brief due on January 9, 2023. Appellant filed a motion for a sixty-day extension of time to file its opening brief on December 29, 2022. That motion was granted on January 4, 2023, making the current deadline March 10, 2023. This is Appellant’s second request for an extension of time to file the opening brief and Appellant’s second request for an extension in this appeal. If this motion is granted, the total days extended on Appellant’s opening brief would be eighty-eight.

B. Reason for Extension

As outlined in more detail in the accompanying Declaration of Debra J. McComas, Appellant requests this extension due to numerous conflicting deadlines in other matters, including other matters pending before this Court.

C. No Opposition

Appellee Corephonics, Ltd. is not opposed to the requested extension, which is sought so that justice may be done in the disposition of this appeal and is not sought for purposes of delay.

PRAYER

For these reasons, Appellant respectfully requests that this unopposed second motion for extension of time be granted and that the time for filing of the Appellant's opening brief be extended from the current deadline of March 10, 2023, until and including April 7, 2023. Appellant further requests all such other relief to which it may be justly entitled.

Dated: March 2, 2023

Respectfully Submitted,

HAYNES AND BOONE, LLP

/s/ Debra J. McComas

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Attorneys for Appellant Apple Inc.

CERTIFICATE OF INTEREST

Case Number 22-2288

Short Case Caption Apple Inc. v. Corephotonics, Ltd.

Filing Party/Entity Appellant / Apple Inc.

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: March 2, 2023

Signature: /s/ Debra J. McComas

Name: Debra J. McComas

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.
	<u>X</u> None/Not Applicable	<u>X</u> None/Not Applicable
Apple Inc.		

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached

Jordan Maucotel (Haynes and Boone, LLP)	Stephanie Sivinski (Haynes and Boone, LLP)	Michael S. Parsons (formerly Haynes and Boone, LLP)

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☒ Yes (file separate notice; see below) ☐ No ☐ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable

☐ Additional pages attached

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CERTIFICATE OF CONFERENCE

I hereby certify that on February 28 and March 1, 2023, I conferred with counsel for the Appellee, who stated that Appellee is not opposed to the relief sought herein.

/s/ Angela M. Oliver (with permission)
Angela M. Oliver

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because:

■ this motion contains **273** words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f) and Fed. Cir. R. 32(b)(2).

2. This motion complies with the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E) because:

■ this motion has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Debra J. McComas
Debra J. McComas

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APPLE INC.,
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**Appeals from the United States Patent and Trademark Office,
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**DECLARATION OF DEBRA J. MCCOMAS IN SUPPORT OF
UNOPPOSED SECOND MOTION FOR EXTENSION OF TIME
TO FILE APPELLANT’S OPENING BRIEF**

I, Debra J. McComas, counsel for Appellant Apple Inc. (“Apple”), declare as follows:

1. I am an attorney admitted to the bar of this Court. I am a partner at Haynes and Boone LLP.
2. I, along with Andrew S. Ehmke, David W. O’Brien, Hong Shi, and Angela M. Oliver, am counsel of record for Appellant Apple.
3. I submit this declaration pursuant to Federal Circuit Rule 26(b)(3) in support of Apple’s Unopposed Second Motion for Extension of Time to File

Appellant's Opening Brief. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

4. Good cause exists for a 28-day extension of time to file Apple's opening brief in this appeal.

5. Counsel of record for Apple have been working diligently toward completion of Apple's brief in this appeal, which is currently due on March 10, 2023. Despite these efforts, professional commitments on other matters have rendered it infeasible to provide the Court with the quality product to which it is entitled within the original time frame.

6. In addition to various district court deadlines arising during the briefing period, counsel of record have had or will have the following competing professional commitments:

- Appellant's brief in *Cisco Systems, Inc. v. K.Mizra LLC*, No. 22-2290 (Fed. Cir.), due March 6, 2023;
- Appellee's brief in *Voice Tech Corp. v. Unified Patents, LLC*, No. 22-2163 (Fed. Cir.), due March 10, 2023;
- Appellee's brief in *GUI Global Products, Ltd. v. Apple Inc.*, No. 22-2257 (Fed. Cir.), due March 15, 2023;
- Appellant's opening brief in *Nabors Drilling Technologies USA, Inc. v. Helmerich & Payne International Drilling Co.*, No. 23-1261 (Fed. Cir.), due March 31, 2023;

- Appellee's brief in *VirnetX v. Cisco Systems*, 2022-2234 (Fed. Cir.), due April 10, 2023.

7. Counsel for Apple have conferred with counsel for the Appellee, who does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 2, 2023 in Dallas, Texas.

/s/ Debra J. McComas

Debra J. McComas